



**CALFED  
BAY-DELTA  
PROGRAM**

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## **M e m o r a n d u m**

Date: June 14, 1999

To: CALFED Policy Group

From: Alf W. Brandt, Regional Coordinator  
Club FED

Subject: Indian Tribe Participation

Pursuant to a Presidential Memorandum dated April 24, 1994, every federal agency is required to: 1) "operate within a government-to-government relationship with federally recognized tribal governments;" 2) "assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources;" and 3) "consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments."

Although there are no federally recognized Indian tribes in the Delta, CALFED has been reaching out vigorously to tribes throughout California during 1999. After USEPA's Regional Tribal Operations Committee (RTOC) discussed CALFED at its winter meeting, CALFED arranged a briefing of interested RTOC members and discussed how best to encourage tribal participation in CALFED.

At that first briefing, CALFED offered to present briefings at both the RTOC May meeting and at the Bureau of Indian Affairs (BIA) Central Agency annual budget meeting, which were completed. The BIA's California Area Office also identified 33 tribes within the Delta's watershed, which would have tribal resources that may possibly be affected by CALFED programs. CALFED nevertheless sent a letter to all California tribal chairpersons seeking their participation. Because CALFED has heard from only a limited number of tribes, we plan to make follow-up calls to certain tribes with the greatest likelihood of interest, particularly around Clear Lake. Finally, we currently are processing RTOC's nomination to BDAC.

CALFED agencies have not been able to identify particular tribal assets that will be affected by CALFED programs, particularly considering the lack of federally recognized tribes in the Delta. Because CALFED remains at a programmatic level of planning, we do not expect

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**CALFED Agencies**

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<b>California</b>	The Resources Agency Department of Fish and Game Department of Water Resources California Environmental Protection Agency State Water Resources Control Board Department of Food and Agriculture	<b>Federal</b>	Environmental Protection Agency Department of the Interior Fish and Wildlife Service Bureau of Reclamation U.S. Geological Survey Bureau of Land Management U.S. Army Corps of Engineers	Department of Agriculture Natural Resources Conservation Service U.S. Forest Service Department of Commerce National Marine Fisheries Service Western Area Power Administration
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to be able to assess accurately the impact of CALFED plans until we progress through site-specific planning. Acknowledging the increasing importance of CALFED activities in the watershed above the Delta, we believe it is important to increase tribal participation in CALFED's development. The question then becomes how best to achieve that goal.

Since the first briefing, tribal representatives interested in participating in CALFED have requested three things: 1) funding for tribal participation in CALFED proceedings; 2) set-aside funding for tribal watershed programs; and 3) representatives on both BDAC and the Policy Committee, seeking equal sovereign status with the state and the federal governments. It should be noted that, although federal agencies are required to consult with affected tribes, funding tribal participation and programs is not mandatory. Until CALFED receives more response from tribes, particularly those likely to be affected, deciding how to respond to the tribal requests is premature.

CALFED therefore proposes to proceed with formal consultations with tribal representatives at a meeting in San Francisco, on the day after the next RTOC meeting, September 2, 1999. We request that Policy Group members, particularly from federal agencies, attend that consultation. After that government-to-government consultation, we can discuss further how CALFED might best engage affected tribal governments.